

16 CV 0248

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

-----X
Dennis Daniel,

Plaintiff,

COMPLAINT

- against -

Anthony J. Annucci, Commissioner of
the New York State Department of
Correction and Community Supervision;
Andrew M. Cuomo, Governor of the
State of New York; and Thomas
Griffin, Superintendent of Green
Haven Correctional Facility,
individually and in their official
capacities,

Defendants.
-----X

Under the
Civil Rights Act,
42 U.S.C. § 1983
(Prisoner Complaint)

Civil Action No. _____

Jury Trial: Yes

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I. PARTIES IN THIS COMPLAINT

1. Plaintiff, Dennis Daniel, pro se, is and was at all times mentioned herein a prisoner in the custody of the New York State Department of Corrections and Community Supervision (NYS-DOCCS). He is currently confined at: Green Haven Correctional Facility (Green Haven), P.O. Box 4000, Stormville, New York 12582-4000.
2. Defendant Anthony J. Annucci is Acting Commissioner of the NYS-DOCCS. He is legally responsible for the overall operations of the Department and each institution under its jurisdiction, including Green Haven. His address is at: NYS-DOCCS, State Office Building #2, State Office Campus, Albany, New York 12226.
3. Defendant Andrew M. Cuomo is the Governor of the State of New York. Address: Executive Department, Executive Chamber--State Capitol, Albany, New York 12224.

4. Defendant Thomas Griffin is Superintendent of Green Haven. He is legally responsible for managing the facility's day-to-day operations, executing its policies, and for the welfare of all the inmates in the prison.

II. STATEMENT OF CLAIM

5. The events giving rise to plaintiff's claims all occurred in the general population at Green Haven, beginning in 2006.

6. Each individual is sued individually and in his/her official capacity. At all times mentioned in this complaint each defendant acted under color of state law, as set forth more fully below.

III. STATEMENT OF FACTS

7. In November of 2005, plaintiff had testify in Wyoming County Court on behalf of inmate Tayden Townsley (ID#95A5259) concerning abusive officers at Attica Correctional Facility (Attica). Later that month, he was transferred to Green Haven. A letter addressed to plaintiff at Attica from the Wyoming County Public Defender's Office is attached as Exhibit A.

8. During an "accreditation" inspection at Green Haven in 2006, plaintiff had had an encounter with two officers from Attica who toured the workshop of his Industrial Training Program. Escorted by Green Haven officers, one of the Attica officers remarked: "There's Daniels, he thought he got away from us."

9. Following plaintiff's run-in with the officers from Attica, his confinement at Green haven has since been burdened by misconducts that include but are not limited to: destructive cell searches; the denial of medical and law library appointments, meals, sick call, phone calls and showers; misplaced and missing mail; disregarded package-room policies and procedures; falsified disciplinary reports; and retaliation for filing grievances.

10. Initially, plaintiff sought remedial actions by addressing area supervisors about the officers' misconduct. But the majority of them he spoke to had themselves been promoted from among the facility's rank of officers, and plaintiff's situation worsened.

11. When plaintiff's attempts at informal resolution failed, out of safety concerns he went to the Inmate Grievance Program (IGP). At first, by using IGP-boxes to mail his complaints. Unaware then, that sergeants are entrusted to collect the complaints from IGP-boxes, plaintiff had gotten reproached by officers before his complaints ever reached the IGP Office.

12. Plaintiff began forwarding his complaints to the IGP office via the facility's U.S. Postal Mailbox instead of IGP-boxes, and has since submitted grievances repeatedly about mistreatment by inadequately trained, inadequately supervised, and inadequately disciplined corrections officers--to no avail.

13. Because Green Haven operates as a training hub with newly hired corrections officers and recently promoted supervisors, the facility has an ever present and constantly changing work-force. As such, veteran officers exploit the rookie officers for help in acts of harassment, a tag-teaming of misconduct that perpetuates their retaliation against plaintiff with impunity.

14. Plaintiff has incorporated paragraphs 7 to 13 of this action to establish a basis for his claims. The foregoing issues had all been fully exhausted, and IGP documents dating between 2006 and 2013 will be provided for the court's review upon request.

15. Plaintiff's claims in this action are based on the following grievances, all dating from February 13, 2013, as outlined in the IGP "Status List" attached as Exhibit B.

16. NEW OFFICERS BE TRAINED PROPERLY: GH-74626-13. Incompetent trainees deny plaintiff's basic daily needs (filed: 2/13/13).

17. MAGAZINE NOT DELIVERED: GH-74664-13. Departmental policies are not followed by officers assigned to handle mail, as set forth in directives: #4015 "Forwarding Inmate Mail," and #4422, "Inmate Correspondence Program" (filed: 2/22/13).

18. DENIED DENTAL SICK CALL: GH-74739-13. Health services policy and procedures was not followed (filed: 3/6/13).

19. DENIED DENTAL SICK CALL: GH-74749-13. Health services policy and procedures was not followed (filed: 3/7/13).

20. DENIED PHONE ACCESS/ALEGES FAVORITISM: GH-74873-13. Follow Directive: #4422, "Inmate Telephone Calls" (filed: 4/2/13).

21. DENIED ACCESS TO MEAL/TOILET: GH-75238-13. Plaintiff's basic daily needs denied (filed: 6/5/13).

22. REQ. ACTION BE TAKEN ON GRIEVANCES: GH-75362-13. Making sure that CORC decisions gets implemented is the responsibility of the IGP Director according to Directive #4040 (filed: 7/3/13).

23. ALLEGES STAFF MISCONDUCT: GH-75407-13. Officers designating inmates to assist them with duties: delivering mail, regulating the order of phone calls and showers, securing cells on the company, and making rounds (filed: 7/11/13).

24. REQ. PROOF OF POSTAGE (RECEIVED): GH-76181-13. Plaintiff's visit packages are not processed according to Directive: #4911 (filed: 11/21/13).

25. ALLEGES HARASSMENT/RETALIATION: GH-76246-13. The opening of plaintiff's cell repeatedly without cause; denying recreation on 9/30/13; delaying access to his visit on 10/28/13, and overseeing a ransacking cell search on 11/28/13 (filed: 12/5/13).

26. CONFIRM DIN # ON MAIL: GH-76262-13. Officers distributing incoming mail correspondences are not properly identifying inmates according to policy and procedures (filed: 12/16/13).
27. DENIED LAW LIBRARY CALLOUT: GH-76627-14. An unsupervised trainee was assigned to the housing unit who delayed the opening of plaintiff's cell by about 15-minutes, and plaintiff was then told by a steady officer that he was too late (filed: 2/13/14).
28. DENIED CALLOUTS: GH-76738-14. Block officer insisted that plaintiff pursue a nonexistent mandatory medical appointment that superseded his law library appointment (filed: 3/3/14).
29. DELAYS SEEING MEDICAL PROVIDER: 78399-14. Plaintiff's repeated requests was unreasonably delayed (filed: 12/5/14).
30. CO HAD INMATE DELIVER MAIL: GH-78049-14. Plaintiff's legal mail was delivered by another inmate (filed: 10/10/14).
31. REPAIR SINK: GH-78019-14. Plaintiff's repeated requests from the block officers to have faulty plumbing repaired in his cell was neglected for more than a month (filed: 10/10/14).
32. REINSTATE BACK TO HEALTH CLASS: GH-78304-14. Plaintiff was unjustly sanctioned from his assigned program (filed: 11/21/14).
33. BLOCK FOLLOW 4421/4422: GH-78384-14. Plaintiff's legal mail was opened in his absence by a block officer. He requested that a supervisor be notified, and that his mail is logged as previously opened in accordance with "Privilege Correspondence" procedures, but his legal mail got lost by the officer (filed: 12/4/14).
34. UNTIMELY gh78019-14: GH-78654-14. Plaintiff's grievances are not processed pursuant to Directive #4040 (filed: 12/31/14).
35. NEGLIGENCE TAKING THE GO-AROUND LIST: GH-79759-15. In haste, officers bypass plaintiff for his entitlements (filed: 6/10/15).

36. LAMP AND TYPEWRITER: GH-79904-15. Plaintiff's typewriter was damaged and his lamp was confiscated by search officers during a facility lock-down (filed: 6/30/15).

37. IGP TITLE/CODE APPROPRIATELY: GH-79957-15. Titles and codes are given to plaintiff's grievances that misrepresent his issues and misdirect the investigation of complaints (filed: 6/30/15).

38. MAIL NOT DELIVERED: GH-80041-15. Two-company's mail went missing in A-block on 6/29/15. Other inmates wrote grievances about it as well, which were consolidated (filed: 7/3/15).

39. RETURN ITEMS AT END OF VISIT: GH-80254-15. Rejected package items are not returned to plaintiff's visitors after visits, and he must repeatedly pay costly shipping fees to return disallowed items to his visitors (filed: 7/22/15).

40. REPAIR CELL GATE: GH-80338-15. Plaintiff's requests to have his inoperable cell gate repaired is disregarded, and results in being denied of his daily entitlements (filed: 7/29/15).

41. CHEMICAL AGENTS: GH-80418-15. Plaintiff was unjustifiably exposed to tear gas in the west-side messhall on 8/3/15, without proper decontamination (consolidated and filed: 8/12/15).

42. DENIED PHONE: GH-80565-15. Plaintiff's requests for phone calls in the block are not granted according to procedures (filed: (8/25/15)).

43. PROCESS VISITORS PACKAGE QUICKLY: GH-81176-15. Disallowed package items are not returned after visits to plaintiff's visitors pursuant to policy and procedures (filed: 10/30/15).

44. HARASSMENT: GH-81206-15. As plaintiff played handball during recreation, officers took the handballs and threw them over a wall out of reach (filed: 11/2/15).

IV. INJURIES

45. Plaintiff has no plain, adequate or complete remedy at law to address the wrongs described herein. Plaintiff has been and will continue to be injured by the defendants in contravention of rules and regulations governing his humane confinement.

V. EXHAUSTION OF ADMINISTRATIVE REMEDIES

46. Plaintiff used the facility's "Inmate Grievance Program" and has fully exhausted the issues mentioned herein as required by the Prison Litigation Reform Act, 42 U.S.C. Section 1997e(a).

VI. RELIEF


47. Plaintiff seeks relief from defendants' degrading treatment and monetary damages for violations of his constitutional rights in the amounts of \$586,000 against each defendant.

48. Plaintiff also seeks recovery of his cost in this suit, and

49. Any additional relief this court deems just, proper, and equitable.

50. Plaintiff has no previous lawsuits, state nor federal.

Signed this 29 day of December, 2015. I declare under penalty of perjury that the foregoing is true and correct.


Dennis Daniel, DIN#: 01A0688
Green Haven Correctional Facility
P.O. Box 4000
Stormville, New York 12582

I declare under penalty of perjury that on this 29 day of December 2015, I am delivering this complaint to prison authorities to be mailed to the Pro Se Office of the United States District Court for the Southern District of New York.

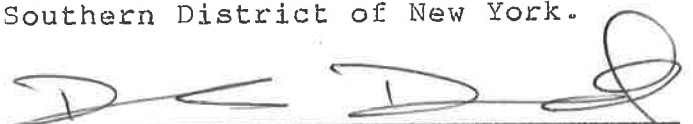

Dennis Daniel, Plaintiff

EXHIBIT A

WYOMING COUNTY PUBLIC DEFENDER



14 Main Street, Attica, New York 14011
(585) 591-1600 • Fax: (585) 591-1602

December 15, 2005

Dennis Daniel. #01-A-0688
PO Box 149
Attica, New York 14011-0149

Re. Court Appearance

Dear Mr. Daniel:

Thank you for your recent letter, and thank you again for testifying on behalf of Tayden Townsley at his trial. I know that you did so at some risk to yourself. You will be interested to know that, although Mr. Townsley was not acquitted of all charges, he was acquitted of intentionally assaulting an officer and of intentionally harassing an officer.

Sincerely,

A handwritten signature in dark ink, appearing to read "Neal J. Mahoney", is written over a light blue horizontal line.

Neal J. Mahoney
Assistant Public Defender

NJM/la

EXHIBIT B

NYS Department of Corrections & Community Supervision

Inmate Grievance System: Green Haven Correctional Facility

Status List

Printed By: C080LAS
Printed On: 9/17/2015 9:20:29 AM

GRIEVANT:	NUMBER:	GH_NO:	CODE:	TITLE:	DBLOGGED:	HEARING:	SUPT_TO_I_:	CORC_DECIS:
DANIEL	01A0688							
		78049-14	23	CO HAD INMATE DELIVER MAIL	10/10/2014	10/22/2014	10/28/2014	5/20/2015
		78019-14	39	REPAIR SINK	10/10/2014	10/22/2014	11/4/2014	3/4/2015
		78304-14	1	REINSTATE BACK T HEALTH CLASS	11/21/2014	1/5/2015	2/6/2015	5/20/2015
		78384-14	23	BLOCK FOLLOW 4421/4422	12/4/2014	2/4/2015	2/26/2015	
		78654-14	44	UNTIMELY gh78019-14	12/31/2014	1/23/2015	3/4/2015	6/24/2015
		79759-15	23	Negligence taking the go-around list.	6/10/2015	7/13/2015	8/13/2015	
		79904-15	25	LAMP AND TYPEWRITER	6/30/2015			
		79957-15	44	IGP TITLE/CODE APPROPRIATELY	6/30/2015	7/10/2015	8/13/2015	
		80254-15	30	RETURN ITEMS AT END OF VISIT	7/22/2015			
		80338-15	39	REPAIR CELL GATE	7/29/2015			
		80565-15	23	DENIED PHONE	8/25/2015			
DANIELS	01A0688							
		74626-13	23	NEW OFFICERS BE TRAINED PROPERLY	2/13/2013	2/27/2013	4/18/2013	10/11/2013
		74664-13	3	MAGAZINE NOT DELIVERED	2/22/2013	3/12/2013	4/24/2013	9/18/2013
		74739-13	23	DENIED DENTAL SICK CALL	3/6/2013	3/21/2013	5/14/2013	9/18/2013
		74749-13	23	DENIED DENTAL SICK CALL	3/7/2013	3/21/2013	5/14/2013	
		74873-13	23	DENIED PHONE ACCESS/ALLEGES FAVORITISM	4/2/2013	4/15/2013	7/1/2013	12/18/2013
		75238-13	23	DENIED ACCESS TO MEAL/TOILET	6/5/2013		7/31/2013	4/29/2014
		75362-13	44	REQ. ACTION BE TAKEN ON GRIEVANCE	7/3/2013	7/12/2013	9/1/2013	3/19/2014
		75407-13	49	ALLEGES STAFF MISCONDUCT	7/11/2013		10/2/2013	6/4/2014
		76181-13	30	REQ. PROOF OF POSTAGE (RECEIVED)	11/21/2013		1/29/2014	7/21/2014
		76246-13	49	ALLEGES HARASSMENT/RETALIATION	12/5/2013		2/16/2014	7/21/2014
		76262-13	23	CONFIRM DIN # ON MAIL	12/16/2013		5/1/2014	10/24/2014
		76627-14	23	DENIED LAW LIBRARY CALLOUT	2/13/2014	2/26/2014	3/18/2014	7/23/2014
		76738--14	23	DENIED CALLOUTS	3/3/2014		4/18/2014	11/12/2014
		78399-14	22	DELAYS SEEING MEDICAL PROVIDER	12/5/2014	12/31/2014	1/28/2015	5/27/2015

JENNIS DANIEL, 01A0 688
Green Haven Correctional Facility
P.O. Box 4000
Stormville, N.Y. 12582

US MAIL
FIRST CLASS

Pro Se Office

United States District Court
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
800 Pearl Street, Room-23C
New York, N.Y. 10007

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